

## REMARKS

This amendment is being filed in response to an Office Action mailed 09/23/2008, in which the Examiner said that claim s 1-68 were pending but rejected. In this amendment, claims 29, 43, and 56-68 are canceled, and claims 1, 3, 20, 26, 30-35, and 44-48 are amended to overcome reasons for rejections given by the Examiner .

### Claims Rejected under 35 USC §§101, 112

The Examiner said that claims 56-68 were rejected under 35 USC §101 because the claims were directed to non-statutory subject matter and under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In this amendment, these claims are canceled.

### Claims Rejected under 35 USC §102

The Examiner further said that claims 1-15, 17-40, 55-66 and 68 were rejected under 35 USC §102(a) as being anticipated by U.S. Pat. No. 6,587,835 to Treyz. et al., hereinafter Treyz.

**Regarding claim 1**, this claim is amended to indicate that the at least one advertisement is displayed *on a display device attached to the shopping cart*. Support for this modification is found in paragraphs [0052] and [0059] of the specification as originally filed.

Furthermore, this claim is modified herein to indicate that the at least one advertisement is displayed *to a plurality of shoppers sequentially using the shopping cart*, that advertisement history data is generated representing each of said at least one advertisement displayed *to each shopper within said plurality of shoppers*, that a code

representing the at least one item purchased by *each shopper within said plurality of shoppers* is generated and compared with said advertisement history data to determine whether an advertised item is purchased by *each shopper within said plurality of shoppers*, and that usage data representing each display of an advertisement for an item purchased by *each shopper within said plurality of shoppers* is generated.

Support for this modification is found in paragraph [0061] of the specification as originally filed, where it is noted that the shopping cart is used by one shopper, returned to a storage area, and then used by another shopper, and where a need to keep track of the advertisements that are presented to during each period of individual use of the shopping cart, so that the purchases made by an individual customer can be compared to the advertisements displayed to him. The implementation of a system for doing this is further discussed in paragraph [0062] and shown in FIG. 4.

The Applicant respectfully submits that Treyz fails to anticipate the requirements of claim 1, as amended herein, for displaying at least one advertisement on a display device attached to said shopping cart to a plurality of shoppers sequentially using said shopping cart. Instead, in the apparatus of Treyz, the shopper is required to bring his own handheld computing device, upon which the advertising messages are displayed, with, at most, a holder or cradle being provided in a shopping cart for holding the shopper's computing device. While information may be transferred from the cradle to the shopper's computing device, the advertisements and other messages are always displayed on the shopper's computer. This difference is particularly significant in that, with the Applicant's invention, the shopper is not required to obtain a computer system and bring it to the store. The Applicant's invention can be used by any shopper using the shopping cart.

For the above reasons, the Applicant respectfully submits that claim 1, as amended herein, is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 2, 10, 12, 13, and 17** the Applicant respectfully submits that, since these claims merely add limitations to the limitations of claim 1, these claims are patentable under 35 USC §102(a) as not being anticipated by Treyz for reasons described above regarding claim 1.

**Regarding claim 3**, in this amendment this claim is written in independent form to include the limitations of claim 1 as originally submitted, upon which claim 3 formerly depended.

The Applicant respectfully submits that the requirements of claim 3 for holding at least one advertising placard within a display unit and for generating advertisement history data representing each of each of said at least one advertisement within a step including generating an electrical signal in accordance with settings of electrical contacts operated according to a pattern of a surface of said at least one advertising placard held within said display unit are not anticipated by Treyz. It is noted that the meaning of "advertising placard" as used in this claim is described in paragraph [0102] of the specification and shown in FIG. 13 of the drawings as a sheet of material having advertising printed on a front side. This is in agreement with the dictionary definition of a placard as being a notice printed on one side of a sheet for posting in a public place.

Treyz does not describe anything of this sort, with all of the advertising messages of Treyz being displayed on the screen of the shopper's computer unit. Regarding this claim, the Examiner referenced column 64, lines 1-10 as describing the placement of a logo adjacent the meat category. However, this reference merely describes the placement of a logo on a screen 1080, as shown in FIG. 114, of the display device, not the placement of an advertising placard, as required by the claim.

Therefore, the Applicant respectfully submits that claim 3, as amended herein, is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 4**, the Applicant respectfully submits that Treys fails to anticipate the requirements of this claim for reading a machine readable element identifying said at least one item with a sensing device at a point-of-sale terminal, and for transmitting said advertisement history data to said point-of sale terminal from said shopping cart adjacent said point-of-sale terminal.

While Treys describes, in column 47, lines 57-64, that the user's activities such as purchase and financial transactions may be monitored, the example given for such transactions are limited to transactions made through the portable computing device as it is described, such as on-line purchasing and purchasing over local wireless links. While information derived from the user (of the portable computing device) scanning a bar code or identifying an item using RFID techniques may be monitored, it is noted that, in column 16, lines 50-53, Treves describes the user interface of the portable computing device as including a bar code scanner or an RFID unit. There is no mention in Treys of bar code scanning or RFID identification occurring at a point of sale, or of data being transferred between the portable computing device and a point of sale terminal.

Therefore, and additionally because claim 4 merely adds limitations to the limitations of claim 1, which is believed to be patentable as described above, the Applicant respectfully submits that claim 4 is patentable under 35 USC §102(a) as not being anticipated by Treys.

**Regarding claim 5 and 18**, the Applicant respectfully submits that Treys does not anticipate the requirement of claim 5 for transmitting said code representing said at least one item and said advertising history data to a store computer system from said point of sale terminal or the requirement of claim 18 for the method to include reading a machine readable element identifying said at least one item with a sensing device at a point-of-sale terminal. Treys does not mention a point of sale terminal or the transmission of data to or from such a device.

Furthermore, the Applicant respectfully submits that Treys does not anticipate the requirements of this claim for steps d) and e) of claim 1 to be performed according to instructions executing within the store computer system. While, in this regard, the Examiner has referenced column 47, lines 30-67, of Treyz, the Applicant respectfully submits that Treys is merely describing process steps occurring within the portable computer unit, not within a store computer system. . While Treyz describes that the user's activities such as purchase and financial transactions may be monitored, the example given for such transactions are limited to transactions made through the portable computing device as it is described, such as on-line purchasing and purchasing over local wireless links. While information derived from the user (of the portable computing device) scanning a bar code or identifying an item using RFID techniques may be monitored, it is noted that, in column 16, lines 50-53, Treves describes the user interface of the portable computing device as including a bar code scanner or an RFID unit. There is no mention in Treys of bar code scanning or RFID identification occurring at a point of sale, or of data being transferred between the portable computing device and a point of sale terminal.

Therefore, and additionally because claim 5 merely adds limitations to the limitations of claim 4, which is believed to be patentable as described above, the Applicant respectfully submits that claim 5 is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 6 and 7,** the Applicant respectfully submits that Treys does not anticipate the requirement of claim 6 for the beginning of a period of use (of the shopping cart by an individual shopper) being determined by sensing movement of the shopping cart, or the requirement of claims 6 and 7 for the end of such a period of use being determined by transmitting advertisement history data to the point of sale terminal. There is no description within Treys of a means to sense movement of a shopping cart or of the transmission of data to a point of sale terminal. Therefore, and

additionally because claim 6 and 7 merely add limitations to the limitations of claim 4, which is believed to be patentable as described above, the Applicant respectfully submits that claims 6 and 7 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 8, 11, 14, 15, and 19,** the Applicant respectfully submits that Treys does not anticipate the requirements of each of these claims for steps d) and e) of claim 1 to be performed according to instructions executing within the store computer system. While, in this regard, the Examiner has referenced column 47, lines 30-67, of Treyz, the Applicant respectfully submits that Treys is merely describing process steps occurring within the portable computer unit, not within a store computer system. . While Treyz describes that the user's activities such as purchase and financial transactions may be monitored, the example given for such transactions are limited to transactions made through the portable computing device as it is described, such as on-line purchasing and purchasing over local wireless links. While information derived from the user (of the portable computing device) scanning a bar code or identifying an item using RFID techniques may be monitored, it is noted that, in column 16, lines 50-53, Treves describes the user interface of the portable computing device as including a bar code scanner or an RFID unit. There is no mention in Treys of bar code scanning or RFID identification occurring at a point of sale, or of data being transferred between the portable computing device and a point of sale terminal.

Therefore, and additionally because each of these claims merely adds limitations to the limitations of claim 1, which is believed to be patentable as described above, the Applicant respectfully submits that these claims are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 9,** since this claim merely adds limitations to claim 8, which is believed to be patentable as described above, the Applicant respectfully submits that this claim is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 20 and 26**, in this amendment, these claims are modified to include a requirement that the display unit must *display advertisements to a plurality of shoppers sequentially using said shopping cart* and that the shopping cart must include means for generating and storing advertisement history data representing advertisements displayed within said display unit *to each shopper within said plurality of shoppers*. Support for this modification is found in paragraph [0061] of the specification as originally filed, where it is noted that the shopping cart is used by one shopper, returned to a storage area, and then used by another shopper, and where a need to keep track of the advertisements that are presented to during each period of individual use of the shopping cart, so that the purchases made by an individual customer can be compared to the advertisements displayed to him. The implementation of a system for doing this is further discussed in paragraph [0062] and shown in FIG. 4.

These claims are additionally modified to include a requirement that the processor within the store computer system must be programmed to determine whether an item advertised in an advertisement displayed in said at least one shopping cart *to each shopper in said plurality of shoppers* has been purchased by said shopper, and to generate usage data representing each display of an advertisement for an item purchased by *a shopper within said plurality of shoppers*. Support for this modification is found in FIGS. 4-6, and in the related discussions in paragraphs [0062] through [0068], [0071], and [0082].

In this regard, referring to FIG. 4, it is noted that processes occurring during the use of the cart by an individual shopper begin with a usage event in step 92 and end with the transmission of advertisement history data in step 110. During these processes, a number of advertisements are sequentially displayed in a loop including steps 100, 102, and 104, with data being written to the advertisement history in step 104. Following the transmission of advertisement history data in step 110 to the point of sale terminal, the

advertisement history data stored within the cart is erased in step 114, with the system of the cart returning to step 92 to wait for a usage event indicating a start of process occurring with the next shopper in a plurality of shoppers.

Referring to FIG. 5, when advertising history data is received from the cart within the point of sale terminal, it is transmitted to the store computer system in step 140. Then, referring to FIG. 6, when it is determined in step 216 that the data transferred from point of sale terminal represents an item for which an advertisement has been displayed to the individual customer, a number stored in a file is incremented to indicate that the advertisement displayed for the purchased item has been effective.

The Applicant respectfully submits that Treyz fails to anticipate the requirements of claims 20 and 26, as amended herein, for displaying advertisements to a plurality of shoppers sequentially using the shopping cart and for storing data within the shopping cart representing advertisements displayed to each shopper within the plurality of shoppers. Instead, in the apparatus of Treyz, the shopper is required to bring his own handheld computing device, upon which the advertising messages are displayed, with, at most, a holder or cradle being provided in a shopping cart for holding the shopper's computing device. While information may be transferred from the cradle to the shopper's computing device, the advertisements and other messages are always displayed on the shopper's computer. This difference is particularly significant in that, with the Applicant's invention, the shopper is not required to obtain a computer system and bring it to the store. The Applicant's invention can be used by any shopper using the shopping cart.

Furthermore, the Applicant respectfully submits that Treyz fails to anticipate the requirements of claim 20 and 26, as amended herein, for a processor within the store computer being programmed to compare said item codes with said advertisement history data to determine whether an item advertised in an advertisement displayed in said at least one shopping cart to each shopper in said plurality of shoppers has been



purchased by said shopper, and to generate usage data representing each display of an advertisement for an item purchased by a shopper within said plurality of shoppers.

As described particularly in column 47, line 60, through column 48, line 34, the system of Trevz is optimize the pattern of displaying advertisements to the user of the portable computing system by determining the types of advertised products in which he is interested, as demonstrated by his behavior, with illustrative steps involved in monitoring a user's actions being shown (as described in column 47, lines 54-56). There is no way to store data to determine the effectiveness of individual advertisements over a plurality of times the advertisements are displayed to a plurality of users, as required in claims 20 and 26, as amended herein.

Therefore, the Applicant respectfully submits that claims 20 and 26 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 21**, the Applicant respectfully submits that Trevz fails to anticipate the requirements of this claim for the transmitter to transmit advertisement history to a point of sale terminal, and for the point of sale terminal to transmit the advertisement history data to the store computer system. There is no mention in Trevz of operations at a point of sale terminal. Trevz mentions the use of a barcode scanner and RFID techniques, but such methods are described in column 16, lines 50-53, as being used in an accessory attached to the portable computer system, not in a point of sale terminal.

Therefore, and additionally because claim 21 merely adds limitations to claim 20, which is believed to be patentable as described above, the Applicant respectfully submits that claim 21 is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 22**, the Applicant respectfully submits that Treyz fails to anticipate the requirements of this claim for the transmitter within the shopping cart to transmit advertisement history data to the point of sale terminal upon receiving a beacon signal

from a transceiver at the point of sale terminal. There is no mention in Treyz of a point of sale terminal or of a beacon signal. Therefore, and additionally because claim 22 merely adds limitations to claim 20, which is believed to be patentable as described above, the Applicant respectfully submits that claim 22 is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 23 and 24**, because these claims merely add limitations to the limitations of claim 20, which is believed to be patentable as described above, the Applicant respectfully submits that these claims are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 25**, the Applicant respectfully submits that Treyz fails to anticipate the requirements of this claim for the display unit to comprise at least one slot for holding a placard having printed advertisement data and a plurality of switches activated by a element of surface structures on said placard, and for the advertisement history data to be generated from outputs of said plurality of switches. It is noted that the meaning of "advertising placard" as used in this claim is described in paragraph [0102] of the specification and shown in FIG. 13 of the drawings as a sheet of material having advertising printed on a front side. This is in agreement with the dictionary definition of a placard as being a notice printed on one side of a sheet for posting in a public place.

Treyz does not describe anything of this sort, with all of the advertising messages of Treyz being displayed on the screen of the shopper's computer unit. Regarding this claim, the Examiner referenced column 64, lines 1-10 as describing the placement of a logo adjacent the meat category. However, this reference merely describes the placement of a logo on a screen 1080, as shown in FIG. 114, of the display device, not the placement of an advertising placard, as required by the claim.

Therefore, the Applicant respectfully submits that claim 25 is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 27 and 28**, because these claims merely add limitations to the limitations of claim 26, which is believed to be patentable as described above, the Applicant respectfully submits that these claims are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 29 and 43**, this claim is canceled.

**Regarding claim 30 and 44**, these claims are rewritten to include all the limitations of claims 29 and 43, respectively, upon which they formerly depended. The Applicant respectfully submits that Treyz fails to anticipate the requirements of claims 30 and 44 for determining that a period of use of said shopping cart has begun by determining that said shopping cart has been moved and for determining that a period of use of the shopping cart has ended in response to determining that a predetermined period of time has passed since a last movement of the cart. Treyz does not describe the use of any device for determining whether or not a shopping cart is being moved. Therefore, the Applicant respectfully submits that claims 30 and 44, as amended herein, are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 31**, this claim is modified to depend upon claim 30, instead of upon the canceled claim 29. Because claim 31 merely adds limitations to the limitations of claim 30, which is believed to be patentable as described above, the Applicant respectfully submits that claim 31 is patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claim 32 and 45**, these claims are rewritten to include all the limitations of claims 29 and 43, respectively, upon which they formerly depended. The Applicant respectfully submits that Treyz fails to anticipate the requirements of claims 32 and 45 for determining that the shopping cart has been moved into proximity with a point of sale terminal and for, in response to such a determination, transmitting data from the

advertisement history file to the point of sale terminal and determining that the period of use has ended. Treyz does not describe any method involving determining that a shopping cart has been moved into proximity with a point of sale terminal. Therefore, the Applicant respectfully submits that claims 32 and 45, as amended herein, are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 33 and 34**, these claims are modified to depend upon claim 32, instead of upon the canceled claim 29. Because claims 33 and 34 add limitations to the limitations of claim 32, which is believed to be patentable as described above, the Applicant respectfully submits that claims 33 and 34 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 46 and 47**, these claims are modified to depend upon claim 45, instead of upon the canceled claim 43. Because claims 46 and 47 add limitations to the limitations of claim 45, which is believed to be patentable as described above, the Applicant respectfully submits that claims 46 and 47 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 35 and 48**, these claims are modified to require that the advertisements displayed in shopping carts are *displayed in a plurality of time periods, each associated with a use of a shopping cart by an individual shopper*, that a code must describe an item to be purchased *during a time period in said plurality of time periods*, that a determination is made that the item is purchased *during the time period*, and that usage data is generated for advertisements based on items purchased and displayed as advertisements during the same time period; Support for this modification is found in paragraph [0061] of the specification as originally filed, where it is noted that the shopping cart is used by one shopper, returned to a storage area, and then used by another shopper, and where a need to keep track of the advertisements that are presented to during each period of individual use of the shopping cart, so that the purchases made by an individual customer can be compared to the advertisements

displayed to him. The implementation of a system for doing this is further discussed in paragraph [0062] and shown in FIG. 4.

These claims are additionally modified to include a requirement that the processor within the store computer system must be programmed to determine whether an item advertised in an advertisement displayed in said at least one shopping cart *to each shopper in said plurality of shoppers* has been purchased by said shopper, and to generate usage data representing each display of an advertisement for an item purchased by *a shopper within said plurality of shoppers*. Support for this modification is found in FIGS. 4-6, and in the related discussions in paragraphs [0062] through [0068], [0071], and [0082].

In this regard, referring to FIG. 4, it is noted that processes occurring during the use of the cart by an individual shopper begin with a usage event in step 92 and end with the transmission of advertisement history data in step 110. During these processes, a number of advertisements are sequentially displayed in a loop including steps 100, 102, and 104, with data being written to the advertisement history in step 104. Following the transmission of advertisement history data in step 110 to the point of sale terminal, the advertisement history data stored within the cart is erased in step 114, with the system of the cart returning to step 92 to wait for a usage event indicating a start of process occurring with the next shopper in a plurality of shoppers.

Referring to FIG. 5, when advertising history data is received from the cart within the point of sale terminal, it is transmitted to the store computer system in step 140. Then, referring to FIG. 6, when it is determined in step 216 that the data transferred from point of sale terminal represents an item for which an advertisement has been displayed to the individual customer, a number stored in a file is incremented to indicate that the advertisement displayed for the purchased item has been effective.

The Applicant respectfully submits that Treyz fails to anticipate the requirements of

claims 36 and 48, as amended herein, for displaying advertisements in a plurality of time periods, each representing the use of the shopping cart by an individual shopper. Instead, in the apparatus of Treyz, the shopper is required to bring his own handheld computing device, upon which the advertising messages are displayed, with, at most, a holder or cradle being provided in a shopping cart for holding the shopper's computing device. While information may be transferred from the cradle to the shopper's computing device, the advertisements and other messages are always displayed on the shopper's computer. This difference is particularly significant in that, with the Applicant's invention, the shopper is not required to obtain a computer system and bring it to the store. The Applicant's invention can be used by any shopper using the shopping cart. Furthermore, the Applicant respectfully submits that Treyz fails to anticipate the requirements of these claims for receiving a code describing an item to be purchased during a time period and for determining that the item has been advertised during the same time period and for generating usage date for items purchased and advertised during the same time periods.

For the above reasons, the Applicant respectfully submits that claims 35 and 48 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 36-42**, since each of these claims merely adds limitations to the limitations of claim 35, which is believed to be patentable as described above, the Applicant respectfully submits that claims 36-42 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 49-55**, since each of these claims merely adds limitations to the limitations of claim 48, which is believed to be patentable as described above, the Applicant respectfully submits that claims 49-55 are patentable under 35 USC §102(a) as not being anticipated by Treyz.

**Regarding claims 56-66 and 68**, these claims are canceled herein.

### **Claims Rejected under 35 USC §103**

**Regarding claims 16, 41, 54, and 67,** the Examiner said that these claims were rejected under 35 USC 103(a) as being unpatentable over Treyz, taking Official Notice that it is old and well known in the promotion art to bill advertisers for the number of ads displayed in a point of sale, and that it would therefore have been obvious to know that Treyz would charge advertisers for displaying their ads in the handheld terminals.

However, the Applicant respectfully submits that his invention, as described in these claims and in the claims upon which they depend, is not for billing advertisers for the number of advertisements displayed in the shopping cart, but rather for billing advertisers for such advertisements only when they are displayed in a shopping cart during a period of use of the cart by a shopper who actually purchases the advertised product. This is believed to be a new concept that is not found in the art.

Furthermore, the Applicant respectfully submits that Treys does not anticipate the generation of usage data for advertisements. While, in this regard, the Examiner has referenced column 47, lines 30-67, of Treyz, the Applicant respectfully submits that Treys is merely describing process steps occurring within the portable computer unit, not within a store computer system. . While Treyz describes that the user's activities such as purchase and financial transactions may be monitored, the example given for such transactions are limited to transactions made through the portable computing device as it is described, such as on-line purchasing and purchasing over local wireless links. While information derived from the user (of the portable computing device) scanning a bar code or identifying an item using RFID techniques may be monitored, it is noted that, in column 16, lines 50-53, Treves describes the user interface of the portable computing device as including a bar code scanner or an RFID unit. There is no mention in Treys of bar code scanning or RFID identification occurring at a point of sale, or of data being transferred between the portable computing device and a point of sale

terminal.

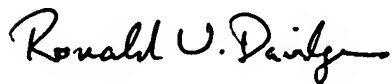
For all the above reasons, the Applicant respectfully submits that claims 16, 41, and 54 are patentable under 35 USC 103(a) over Treyz.

Claim 67 is canceled herein.

### **Conclusions**

It is respectfully submitted that the application, including claims 1-28, 30-42, 44-55, is now in condition, and that action is respectfully requested, along with reconsideration and reversal of all reasons given for rejections.

Respectfully submitted,

A handwritten signature in black ink, reading "Ronald V. Davidge". The signature is written in a cursive style with a large, stylized 'R' and a long, sweeping underline.

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